592 The Batutsi women each occupy her own rugo with her chil-
595 dren, women servants (abaja), and cattle given by the husband. The concubines live one or two together in separate huts inside the rugo of a legitimate wife.

Occasionally, the Bahutu wives occupy the same hut, but only for a rather short time.

574 The wife is not required to return occasionally to her parents.
787 However, the auguries may decide that childbirth will be more successful in her own family. [27]

7. Rights and Obligations of Husband and Wife

593 According to custom, the husband has the general duty of aiding and assisting his wife (kukamira umugore, lit., to milk [a cow] for his wife). He must provide her with clothing and ornaments (1),

[301] 1. In the past the husband spent a great deal to provide his wife with ububutega (rings made of grasses) which she wore by the hundred on her legs. This finery which weighed down the Banyarwanda woman's figure and interfered with walking was considered the height of elegance,
[481] for it gave her the gait of cows that are universally admired in Ruanda.

and nurse her when she is sick. In the same way, a wife who abandoned her husband when he was ill or in trouble would be disgraced.

593 Separation of property exists between husband and wife. The
421 wife owns her rugo, her field, and in addition, among the Batutsi,
563 some inyarulembo cattle (2) and some abagaragu that she received

2. Cf. Property, Ownership of Cattle, p. 44.

from her husband.

[41]

SECTION II. PROPERTY

1. Property in General

421 The Banyarwanda have a less abstract idea of property than we have. It is comparable to that of possession.

On the other hand, no differentiation is made between personal property and real estate. Property is given different names according to its nature and use. The Banyarwanda divide their property [into the following categories]: amatungo (animals); ibintu, a generic name applicable to the rugo, imilima (fields); ubgatsi (pasturage); imyaka (crops); and urutoke (banana plantations); ibiti (trees); intwaro (weapons and cutting instruments); ibikolesho (hoes, pickaxes, baskets, churns); imyambaro (clothing).

2. Landed Property

423 True landed property exists in Ruanda, while in the Belgian Congo the natives consider that the bare ownership of the land belongs to the souls of the departed and that they themselves only have usufruct.

[643] All the land in the country belongs to the Mwami who relinquishes its use successively to the various chiefs and subchiefs. These, 423 in turn, cede an isambu (land sold) or concede an umwatano (land 425 leased) to the Bahutu in consideration of a price or a payment con- 427 sisting of a certain percentage of future crops (ichyata umulima, lit., gift in order to have a field).

The Muhutu holds his land in a more or less precarious way. Even if he makes his payments regularly [42] his land may be taken away from him one day, if, for example, he neglects to pay the customary dues to the chiefs and the king. In this case he may be deprived of all or part of his land, but the last crop is not taken from him (1).

423 184 1. An appreciably different administration of property exists in the western part of Bunyambiriri, the extreme north of Ndiza,

423 person who will pay more tribute or who pleases him [illegible] other reasons (No. 19, p. 469). As a rule, however, families live on a piece of land for generations and till the soil for their own benefit and in part for that of their feudal lord. Before the Batussi era, this land was probably for the most part the property of the Bahutu clans (see p. 104). The homesteads inhabited by the Batussi are usually set somewhat apart from those of the Bahutu, outside the confines of fields in the grazing land.

The inhabitants own their huts and, in addition, every- 421 thing they keep inside the huts or carry on their person. Thus, men, women, and children may own property, and the following may be items of property: huts, planted trees, produce still standing in the field or harvested, cattle that have been raised, furniture, tools, clothing, weapons, ornaments, trade objects, etc.

685 Property violations, i.e., damage and theft (uwivi), are 674 frequent, but if someone leaves his hut unguarded, a woven screen in front of the door opening is usually sufficient to keep away uninvited guests. Although the kraals are surrounded by [417] strong fences and the paths between the fields are often lined with high euphorbia hedges (Plate 20), these have not been put up or grown as a protection against thieves but to pen and restrain the cattle. If a person steals something from [94] a homestead or produce from the fields, he is taken before the mutwale and is sentenced to severe corporal punishment unless he can pay a generous amount in damages of which the mutwale will appropriate one half (No. 4, p. 224).

692 The mutwale or in smaller districts the village chief is 627 the judge who pronounces justice in all cases. Usually the Batwa take care of their legal disputes among themselves without appealing to their Murundi mutwale, but the Batussi and the Bahutu take every matter that cannot be settled by the family council before their mutwale. Usually the plaintiff brings several witnesses with him whenever possible, but at the same time he brings a present for the judge which is not without influence upon the verdict of the latter (No. 19, p. 472). In most cases 696 the convicted person receives his corporal punishment from the family members of the plaintiff or from the bodyguard of the chief if he has one. Concerning the types of punishment, see p. 97.

614 Abasinga, Abagessera, Abasiete, etc. /46/

2. Bahutu Ethnic Group

a) Oldest clans:
Ababanda, Abagessera, Abazigaba, Abungura, Abasinga, Abatchaba or Abiru, etc.

b) Secondary or recent clans:
Abambari, Abalevu, Abalindwa, Abatabo, Abahindi, Abakora, Abahigo, Abahuma, Abatembe, Abaziko, Abashobyo, Abondo, Abanyunjo, Abajongo, Abachira, Abakwa, Abanyoni, Abungura, Abalimba, etc.

3. Batwa Ethnic Group

563 They borrow their designations from the Bahutu for most of
614 their clans. Although of Bahutu origin, the Bayovu are linked to the Batwa race. They are regarded as a degenerate group because, like the Negrillos, they eat animals considered impure and make pottery.

In spite of their more or less artificial division into tribes, the Pygmies actually regard themselves from a social point of view as part of one single group called Batwa. They practice what we call solidarity among themselves.

If one of them is killed, the whole group feels injured and
[574] rises to avenge him. A Mutwa /sing. of Batwa/ who travels is everywhere offered hospitality by his "brothers," even if they do not know him.

● 421 Property rights exist among the Banyarwanda. They are well defined by custom and tradition, notwithstanding temporary injustices and the discretionary powers of the king and of the chiefs. Everyone recognizes those rights and accepts them in principle. No one fails to exercise them or claim them.

They are taken into account in legal proceedings.

Daughters do not inherit but are taken care of by their brothers
421 until the day they marry. /47/

9:Maquet E-5 (1949-1951) 1961 FO42 Rundi FO42

[P. 89]

CHAPTER IV

ECONOMIC PRODUCTION

As we mentioned earlier, it was by land cultivation and cattle rearing that the Ruanda satisfied their fundamental subsistence requirements. Consequently land, cattle, knowledge of agricultural and cattle-breeding techniques, implements, and ability to work were essential in the economic process of production.

Ruanda economy was primitive in the sense that every rugo[1] was a unit which had to produce practically all that was necessary for the subsistence of its members. None of these units concentrated on certain crops and obtained other foodstuffs by exchange. Every family head was a producer. What access had he, then, to the different factors of production?

Knowledge of agriculture and cattle-rearing techniques was part of the common heritage of every Ruanda. The Hutu were more expert agriculturalists than the Tutsi, and though some Tutsi were probably more versed in cattle-rearing any Hutu had the knowledge necessary to a tiller and a herdsman. Equipment was not very elaborate, and hoes and bill-hooks were not scarce.

Access to the other factors of production, land, cattle, and labour, was more restricted. We shall now consider what were the opportunities of the individual family head from that point of view.

1. LAND TENURE

When Ruanda are asked who is the owner of the fields and pastures, some answer it is the king, others the land chief or the cattle chief, others the family head or the lineage head. All of them are right, which means that the question is wrongly phrased

The Ruanda did not conceive of ownership as a private and exclusive right to the various uses to which a thing may be submitted. They regarded each of the uses as the object of a particular right. It was not thought necessary that one person should be endowed with the sum of the rights affecting one object. On the contrary, it was usual that different persons could claim

[1] [rugo: The basic dwelling unit or compound; cf. p. 30 -- analyst]

9:Maquet E-5 (1949-1951)1961 FO42 Rundi FO42

different uses of the same thing. For instance, one person could have the right to sow a plot and to collect the harvest and another to use it for grazing purposes at another time of the year. Neither of them was considered as the owner letting somebody else use his property as a pasture or as a ground for cultivation.

On each pasture, cultivated plot or forest area, the king had a right very similar to the *dominion eminens* of Roman law, the kind of public ownership that a State has over the land within the borders. But he had also the right to prevent, if he chose to do so, somebody from using a particular tract of land in any way at all, which amounts to saying that the mwami had over land a right potentially superior to that of anybody else. The mwami's rights could be opposed to 'private rights'. In fact, the king very rarely insisted on this use of his rights and then only when he wanted to punish somebody who was guilty of disobedience or of some other crime.

The land chief's and cattle chief's rights to fields and pastures will be considered later in the section dealing with the administration. Suffice it to say here that these tax-collectors had the right to evict people for certain offences and to allocate land to newcomers in their districts.

The person endowed with rights on land for cultivation purposes was the head of a family (*rugo*). Mostly these rights came to him from his father's inheritance. Sometimes, however, it was a part of the bush that he had himself cleared. If he had not received enough from his father to support his family, he extended his plot in this way with the agreement of the political authority. If, because of a dispute with his brothers, he wanted to move elsewhere and the land chief could not allocate him a field already prepared at the place where he wanted to settle, he did the same. Such a plot was called *bukonde* as long as it was occupied either by the man who had cleared it or by his descendants. A third source of cultivation rights was the assignment by the land chief of a plot already prepared (*inkungu*). The former user of it had either to be evicted by the authority, or had left, or had died without heirs.

In the same way the family head had the right to use a certain area as pasture for his cattle either by inheritance, or by felling the trees of a tract of forest or by having it conceded by the cattle chief.

At the end of the nineteenth century the inzu had no collective

9:Maquet E-5 (1949-1951)1961 FO42 Rundi FO42

422 Sometimes these rights (bare ownership and usufruct) were possessed by the same person. The cattle concerned were then called *imbata*.[2]

3. INHERITANCE RULES

768 When the father died, the family unit of which he had been the head did not disappear as well. Some of the family functions had still to be carried on for some time: the younger sons had to be given a wife and the bride-wealth paid for them, the younger daughters had to be married, and perhaps young children had still to be taken care of by their mother for several years. In order that the family unit should be able to perform its tasks before its breakdown, it was necessary that the duties of the rugo head should continue to be fulfilled. Consequently the father chose one of his 592 sons who could be trusted with that role (*umutware w'urugo rwa se:* head of his father's family). He was often, but not always, the eldest son of the first wife. The father could even choose a brother or one of his parallel cousins if he thought none of his sons was capable. The father's choice could always be reversed by the lineage head or the political chief or even the lord, if it appeared unwise to these authorities or if it was the cause of complaints from the other members of the family.

593 It was the father who was endowed, as we have just seen, with 421 rights to land and cattle. The totality of these rights plus goods such as trees, huts, and household implements, constituted his patrimony.

428 If there was no declaration of will, custom determined the division of the patrimony according to the following rules.

The first heirs were the sons of the deceased, or, failing these, his brothers, then his paternal male parallel cousins, his grandsons, the sons of his brothers and their male paternal parallel cousins, his paternal uncles. Then any male in the inzu or the umulyango. If there was no known kinsman left, the political authority (land or cattle chief) or the lord was the heir. In that case the patrimony might be divided according to the kind of rights left, for instance those over cattle went to the lord, those over land to the land chief. Or the more powerful authority was able to secure for himself the whole of the inheritance.

[2] See Vanhove. 1941, pp. 48-59, for still other, but less important, rights over cattle.